

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

GARY RAY WALLER, JR.,

Petitioner,

v.

CIVIL ACTION NO. 5:20-cv-00869

DAVID L. YOUNG,

Respondent.

**ORDER**

Pending is Respondent David L. Young’s Motion to Dismiss Petition [ECF 18], filed August 3, 2023. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on August 18, 2023. Magistrate Judge Aboulhosn recommended that the Court grant Mr. Young’s Motion to Dismiss Petition and remove this matter from the docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-*


*Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on September 5, 2023. No objections were filed.<sup>1</sup>

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 12**], **GRANTS** Mr. Young’s Motion to Dismiss Petition [**Doc. 18**], and **DISMISSES** this matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: October 10, 2023



  
Frank W. Volk  
United States District Judge

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<sup>1</sup>On August 18, 2023, a copy of the PF&R was mailed to Mr. Waller at FCI McDowell but was returned as undeliverable on September 14, 2023. [Doc. 22]. At this writing, the Bureau of Prisons’ Inmate Locator indicates Mr. Waller was released from custody on November 17, 2021. Inasmuch as Mr. Waller has failed to keep the Court apprised of his current address as required by *Local Rule of Civil Procedure* 83.5, this matter is ripe for adjudication.